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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/731,766

12/09/2003

Reid Edmund Tatge

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EXAMINER

WANG, BEN C

ART UNIT

PAPER NUMBER

2192

NOTIFICATION DATE

DELIVERY MODE

11/07/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@ti.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/731,766	<b>Applicant(s)</b> TATGE ET AL.	
	<b>Examiner</b> BEN C. WANG	<b>Art Unit</b> 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***DETAILED ACTION***

1. Applicant's amendment dated August 5, 2008, responding to the Office action mailed March 6, 2008 provided in the rejection of claims 1-18, wherein claim 1 has been amended, claims 2-3 and 5-18 were canceled.

Claims 1 and 4 remain pending in the application and which have been fully considered by the examiner.

Applicant's arguments with respect to claims currently amended have been fully considered but are moot in view of the new grounds of rejection – see *Carl D. Burch (Burch2)* - art made of record, as applied hereto.

***Claim Rejections – 35 USC § 102(e)***

The following is quotation of 35 U.S.C. 102(e) which form the basis for all obviousness rejections set forth in this office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Carl D. Burch (Pat. No. US 6,978,450 B2) (hereinafter 'Burch2' - art made of record)

3. **As to claim 1** (Currently Amended), Burch2 discloses a code generating system, comprising:

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- a compiler (e.g., Fig. 1, element 108 – Compilation System) that receives source code (e.g., Fig. 1, element 118 – Source Code) and generates an object file (e.g., Fig. 1, element 120 - Object Code) comprising object code (e.g., Fig. 1, element 120 – Object Code) and intermediate code (e.g., Fig. 3B, element 122 – Intermediate Code);
- a code optimizer (e.g., Fig. 3A, element 109 – Optimizer; ) coupled to the compiler (e.g., Col. 6, Lines 37-40 – The compilation system may include the optimizer ...) that produces optimized intermediate code from intermediate code (e.g., Fig. 3B, elements 109A – High Level Scope Optimizer; 122 – Intermediate Code; Col. 8, Lines 30-40 - ... then determined that the high-level scope of the intermediate code stream is to be optimized. If the high-level scope of the intermediate code is to be optimized, then the compiler system performs the high-level scope optimizer. This converts intermediate code to more efficient intermediate code ...); and
- a linker (e.g., Fig. 3A, element 112 – Linker) that receives the object file (e.g., Fig. 3A, element 120 – Object Code File) comprising object code (e.g., Fig. 3A, element 203 – Object Code Stream) and intermediate code (e.g., Fig. 3A, element 122 – Intermediate Code; Fig. 3B, element 122 – Intermediate Code) and provides the intermediate code (e.g., Fig. 3B, element 122 – Intermediate Code) to the code optimizer (e.g., Fig. 3B, 109A – High Level Scope Optimizer) and produces executable code from the object file (e.g., Fig. 3B, elements 120 – Object Code File; 124 – Executable File)

4. **As to claim 4** (Original) (incorporating the rejection in claim 1), Burch2 discloses the code generating system wherein the linker sends only portions of the intermediate code to the code optimizer (e.g., Col. 3, Lines 4-38 - ... do not use intermediate code from files, but instead optimize the intermediate code emitted by the compiler front-end while compiling source code file ...; Col. 8, Lines 18-30; Col. 9, Lines 3-23 - ... to prevent wasting time in a recompilation of identical intermediate code stream ... Smartbuild determines whether the newly generated intermediate code stream is identical to the previous generated intermediate code stream for a particular scope of code and data. This scope can be of varying sizes ...)

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ben C. Wang whose telephone number is 571-270-1240. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ben C Wang/

Examiner, Art Unit 2192

/Tuan Q. Dam/

Supervisory Patent Examiner, Art Unit 2192